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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,853	08/09/2006	Camille Dupuy	Q96476	2008
23373 7590 01/19/2012 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER BADR, HAMID R				
ART UNIT 1781		PAPER NUMBER		
NOTIFICATION DATE 01/19/2012		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@sughrue.com
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Office Action Summary**Application No.**

10/588,853

Applicant(s)

DUPUY ET AL.

Examiner

HAMID R. BADR

Art Unit

1781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE, 5/23/2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 28-44, 46 and 48-54 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 28-44, 46 and 48-54 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-CB00)
Paper No(s) Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s) Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/23/2011 has been entered.

Claims 28-44, 46, and 48-54 are being considered on the merits.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 28-44, 46, and 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelinis et al. (US 5,108,766; hereinafter R1) in view of Akatsuka et al. (US 4,093,748; hereinafter R2) and Schanus et al. (US 5,286,630; hereinafter R3)
3. R1 discloses a bread flavorant comprising a dough obtained by lactic fermentation of flour and resulting flavorant can be used in dried form. These flavorants are added to bakery products at concentrations of about 2-4% (Abstract).
4. R1 discloses that the fermented substrate can have flour comprising whole wheat, rye, barley, oat, buckwheat or combination of these flours. (col. 4, lines 12-20). R1 also discloses that flour contains microorganisms, mainly lactic acid bacteria and

yeast, that significantly contribute to flavor production in the fermentation medium (col. 4, lines 30-35). R1 further discloses that the optional addition of baker's yeast to the medium could enhance some interactions with the lactic acid bacteria present, especially with regard to the development of flavors (col. 6, lines 25-30). Therefore, according to R1, lactic bacteria and baker's yeast are result effective variables in the flavorant of R1.

5. R1 teaches of yeasts in the fermented dough with reference to *Saccharomyces cerevisiae*. (col. 6, lines 22-30) as required by claim 36.

6. R1 discloses the acid development and monitoring process for the fermented product. R1 discloses that the fermentation can be stopped at any time after sufficient amount of acids have been produced by the bacterial culture (col. 6, lines 59-68). Given that R1 teaches of the monitoring of the acid fermentation, it would be obvious to produce fermented products of various lactic acid content as presently claimed (claims 34-35, 42, 48, 50) depending on the desired acid taste of the product.

7. R1 discloses that the flavorant can be freeze-dried, dried or frozen for longer storage periods. (Example 1). When the product is dried, per R1, the dry matter of the product will be in the range as presently claimed in claims 29-30 and 40. Claims 29 and 30 and 40 require a moisture content less than 15%. The freeze-dried or dried powder of R1 comprises less than 15% moisture.

8. While R1 clearly discloses the production of a dried flavor enhancing agent for bakery products and clearly discloses the interaction of lactic bacteria and yeast for the

development of flavor, R1 is silent regarding the inclusion of yeast extract in the dry flavor enhancing mixture.

9. R2 discloses a process wherein yeast extract is added to yeast flour and fermented. (Abstract).

10. R2 discloses that the yeast extract is added at about 0.01-0.3% on the basis of the total amount of wheat flour. (col. 2, lines 18-22) This disclosure in R2 together with the disclosure of R1 regarding the concentration of fermented flour (at 2-4%) may be used to optimize the dry matter ration of flour to yeast extract as claimed in claims 31-32, 41, and 53.

11. R2 teaches of using various types of yeast extracts from various sources including brewer's yeast as presently claimed in claims 36-37, 43 and 52. (col. 1, lines 51-58)

12. R2 also discloses that the yeast extract added to the dough not only accelerates the maturing of the dough, but also it improves the volume, flavor, crust color and other qualities of bread. (col. 2, lines 3-7)

13. R2 discloses formulations for the doughs containing the yeast extract, no added salt and hydrolyzed egg white powder. The sponge and dough formulation contains less than 1.8% salt as presently claimed. (Col. 2, Example). The sodium content of the sponge and dough formulation is less than 0.5% as presently claimed.

14. R1 and R2 are silent regarding the effect of yeast extract on reducing the need for sodium chloride in foods.

15. R3 disclosed that the flavor enhancing properties present in some yeast extracts can modify the flavor characteristics of foods and seasonings. These properties also reduce the need for sodium by changing the perceived flavor of sodium chloride in foods so that the salt content can be reduced without a significant loss of salty taste (Col. 1, lines 38-44). Therefore, when yeast extract is included in bakery formulations, it is obvious that due to the flavor enhancing effect of yeast extract, less salt will be needed regarding the taste effects of salt as disclosed by R3. It can be concluded that flavor enhancing effect of yeast extract resulting in reduction of added salt in a food system is inherent in yeast extract. Therefore, low salt and sodium requirements of claims 48-49 are obvious in light of the teachings of R3 and regarding the incorporation of yeast extract in baked products as taught by R2.

16. Since the role of yeast extract as a flavoring agent and as a dough improving agent (accelerating the fermentation) is disclosed by R2 and R3, it is obvious to incorporate it into the sour dough or alternatively mix it with the dried fermented dough of R1. Since the dry fermented product of R1 and the yeast extract of R2 and R3 are result effective variables in determining the enhanced taste of baked products, the ratios of the dry matter of the dried sour dough to the dry matter of yeast extract are obviously optimized for creating the best organoleptic and functional results. The optimized ratios as presently claimed in claim 31 and 53 would be motivated and obvious to those of skill in the art.

17. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to make a dried sour dough, as disclosed by R1, either

containing yeast extract, as disclosed by R2, or to make a dried sour dough and mix it with dry yeast extract and add the flavor enhancing agent to a dough to enhance the flavor of the baked products as disclosed by R3. One would do so to enhance the flavor of the baked product and reduce the amount of added sodium chloride due to flavor enhancing properties of yeast extract. Absent any evidence to contrary and based on the combined teachings of the cited references, there would be a reasonable expectation of success in making the dried flavor enhancing agent as presently claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAMID R. BADR whose telephone number is (571)270-3455. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit 1781

HAMID R BADR
Examiner
Art Unit 1781